

CIVIL COMMITMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses civil commitment of a child.

Highlighted Provisions:

This bill:

- ▶ creates, modifies, and repeals definitions;
- ▶ clarifies whether parental consent is required before a child may be temporarily civilly committed to a local mental health authority;
- ▶ clarifies abuse and neglect reporting requirements regarding a child who is temporarily civilly committed to a local mental health authority;
- ▶ modifies and clarifies the circumstances under which a child may be civilly committed to a local mental health authority;
- ▶ repeals provisions related to civil commitment of a minor to a secure drug or alcohol facility or program; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **17-43-301**, as last amended by Laws of Utah 2020, Chapter 303
29 **62A-15-602**, as last amended by Laws of Utah 2021, Chapter 122
30 **62A-15-610**, as last amended by Laws of Utah 2011, Chapter 366
31 **62A-15-628**, as last amended by Laws of Utah 2018, Chapter 322
32 **62A-15-631**, as last amended by Laws of Utah 2021, Chapter 122
33 **62A-15-701**, as last amended by Laws of Utah 2003, Chapter 195
34 **62A-15-703**, as last amended by Laws of Utah 2021, Chapter 262
35 **62A-15-705**, as last amended by Laws of Utah 2021, Chapter 261
36 **78A-6-103**, as last amended by Laws of Utah 2021, Chapter 261
37 **78A-6-358**, as renumbered and amended by Laws of Utah 2021, Chapter 261
38 **78B-6-105**, as last amended by Laws of Utah 2021, Chapter 261
39 **80-3-405**, as enacted by Laws of Utah 2021, Chapter 261
40 **80-6-402**, as renumbered and amended by Laws of Utah 2021, Chapter 261
41 **80-6-403**, as renumbered and amended by Laws of Utah 2021, Chapter 261
42 **80-6-706**, as enacted by Laws of Utah 2021, Chapter 261
43 **80-6-801**, as enacted by Laws of Utah 2021, Chapter 261
44 ENACTS:
45 **62A-15-702.5**, Utah Code Annotated 1953
46 REPEALS:
47 **62A-15-301**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
48 Chapter 8
49 **62A-15-702**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
50 Chapter 8
51

52 *Be it enacted by the Legislature of the state of Utah:*
53 Section 1. Section **17-43-301** is amended to read:
54 **17-43-301. Local mental health authorities -- Responsibilities.**
55 (1) As used in this section:
56 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
57 **62A-15-602**.
58 (b) "Crisis worker" means the same as that term is defined in Section **62A-15-1301**.

(c) "Local mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local

mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by ~~its~~ the local mental health authority's contract provider, with all directives issued by the department and the Department of Health regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 62A-15-630.5;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of ~~[Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health Authority.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local

mental health authority shall:

- (i) collaborate with the statewide mental health crisis line described in Section 62A-15-1302;
- (ii) ensure that each individual who answers calls to the local mental health crisis line:
 - (A) is a mental health therapist or a crisis worker; and
 - (B) meets the standards of care and practice established by the Division of Substance Abuse and Mental Health, in accordance with Section 62A-15-1302; and
- (iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:
 - (A) waiting on hold; or
 - (B) being screened by an individual other than a mental health therapist or crisis worker.
- (b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.
- (8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:
 - (a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:
 - (i) the division;
 - (ii) the local mental health authority director;
 - (iii) (A) the county treasurer and county or district attorney; or
 - (B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;
 - (iv) the county legislative body; and
 - (v) in a county with a county executive that is separate from the county legislative

body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section 62A-15-630.4, to a resident of the county who has been ordered under Section 62A-15-630.5 to receive assisted outpatient treatment.

Section 2. Section 62A-15-602 is amended to read:

62A-15-602. Definitions.

As used in this part, [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health,~~] Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years ~~[of age]~~ old or older.

(2) "Approved treatment facility or program" means a treatment provider that meets the standards described in Subsection 62A-15-103(2)(a)(v).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 62A-15-630.5.

(4) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(5) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental

health centers.

(6) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(7) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(8) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(10) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(11) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

(12) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

(13) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides

276 acute inpatient psychiatric services to a patient.

277 (14) "Mental health officer" means an individual who is designated by a local mental
278 health authority as qualified by training and experience in the recognition and identification of
279 mental illness, to:

280 (a) apply for and provide certification for a temporary commitment; or

281 (b) assist in the arrangement of transportation to a designated mental health facility.

282 (15) "Mental illness" means:

283 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
284 behavioral, or related functioning; or

285 (b) the same as that term is defined in:

286 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
287 published by the American Psychiatric Association; or

288 (ii) the current edition of the International Statistical Classification of Diseases and
289 Related Health Problems.

290 (16) "Patient" means an individual who is:

291 (a) under commitment to the custody or to the treatment services of a local mental
292 health authority; or

293 (b) undergoing essential treatment and intervention.

294 (17) "Physician" means an individual who is:

295 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

296 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical
297 Practice Act.

298 (18) "Serious bodily injury" means bodily injury that involves a substantial risk of
299 death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
300 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

301 (19) "Substantial danger" means that due to mental illness, an individual is at serious
302 risk of:

303 (a) suicide;

304 (b) serious bodily self-injury;

305 (c) serious bodily injury because the individual is incapable of providing the basic
306 necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; or

(e) engaging in harmful sexual conduct.

(20) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 3. Section **62A-15-610** is amended to read:

62A-15-610. Objectives of state hospital and other facilities -- Persons who may be admitted to state hospital.

(1) The objectives of the state hospital and other mental health facilities shall be to care for all ~~[persons]~~ individuals within this state who are subject to the provisions of this chapter~~;~~ and to furnish ~~[them]~~ the individuals with the proper attendance, medical treatment, seclusion, rest, restraint, amusement, occupation, and support that is conducive to ~~[their]~~ the individuals' physical and mental well-being.

(2) Only the following ~~[persons]~~ individuals may be admitted to the state hospital:

(a) ~~[persons]~~ individuals 18 years ~~[of age]~~ old and older who meet the criteria necessary for commitment under this part and who have severe mental disorders for whom no appropriate, less restrictive treatment alternative is available;

(b) ~~[persons]~~ individuals under 18 years ~~[of age]~~ old who meet the criteria necessary for commitment under Part 7, Commitment of ~~[Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health Authority, and for whom no less restrictive alternative is available;

(c) ~~[persons]~~ individuals adjudicated and found to be guilty with a mental illness under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

(d) ~~[persons]~~ individuals adjudicated and found to be not guilty by reason of insanity who are under a subsequent commitment order because they have a mental illness and are a danger to ~~[themselves]~~ self or others, under Section ~~77-16a-302~~;

(e) ~~[persons]~~ individuals found incompetent to proceed under Section ~~77-15-6~~;

(f) ~~[persons]~~ individuals who require an examination under Title 77, Utah Code of Criminal Procedure; and

(g) persons in the custody of the Department of Corrections, admitted in accordance

with Section 62A-15-605.5, giving priority to those ~~[persons]~~ individuals with severe mental disorders.

Section 4. Section 62A-15-628 is amended to read:

62A-15-628. Involuntary commitment -- Procedures.

(1) An adult may not be involuntarily committed to the custody of a local mental health authority except under the following provisions:

(a) emergency procedures for temporary commitment upon medical or designated examiner certification, as provided in Subsection 62A-15-629(1)(a);

(b) emergency procedures for temporary commitment without endorsement of medical or designated examiner certification, as provided in Subsection 62A-15-629(1)(b); or

(c) commitment on court order, as provided in Section 62A-15-631.

(2) ~~[A person]~~ An individual under 18 years ~~[of age]~~ old may be committed to the physical custody of a local mental health authority only in accordance with the provisions of Part 7, Commitment of ~~[Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health Authority.

Section 5. Section 62A-15-631 is amended to read:

62A-15-631. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a

369 mental illness and should be involuntarily committed; or

370 (ii) a written statement by the applicant that:

371 (A) the proposed patient has been requested to, but has refused to, submit to an
372 examination of mental condition by a licensed physician or designated examiner;

373 (B) is sworn to under oath; and

374 (C) states the facts upon which the application is based; and

375 (c) a statement whether the proposed patient has previously been under an assisted
376 outpatient treatment order, if known by the applicant.

377 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may
378 require the applicant to consult with the appropriate local mental health authority, and the court
379 may direct a mental health professional from that local mental health authority to interview the
380 applicant and the proposed patient to determine the existing facts and report them to the court.

381 (b) The consultation described in Subsection (2)(a):

382 (i) may take place at or before the hearing; and

383 (ii) is required if the local mental health authority appears at the hearing.

384 (3) If the court finds from the application, from any other statements under oath, or
385 from any reports from a mental health professional that there is a reasonable basis to believe
386 that the proposed patient has a mental illness that poses a substantial danger to self or others
387 requiring involuntary commitment pending examination and hearing; or, if the proposed patient
388 has refused to submit to an interview with a mental health professional as directed by the court
389 or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental
390 health officer or peace officer, to immediately place the proposed patient in the custody of a
391 local mental health authority or in a temporary emergency facility as provided in Section
392 [62A-15-634](#) to be detained for the purpose of examination.

393 (4) Notice of commencement of proceedings for involuntary commitment, setting forth
394 the allegations of the application and any reported facts, together with a copy of any official
395 order of detention, shall be provided by the court to a proposed patient before, or upon,
396 placement in the custody of a local mental health authority or, with respect to any proposed
397 patient presently in the custody of a local mental health authority whose status is being changed
398 from voluntary to involuntary, upon the filing of an application for that purpose with the court.
399 A copy of that order of detention shall be maintained at the place of detention.

(5) Notice of commencement of those proceedings shall be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or ~~[its]~~ the local mental health authority's designee, and any other persons whom the proposed patient or the court shall designate. That notice shall advise those persons that a hearing may be held within the time provided by law. If the proposed patient has refused to permit release of information necessary for provisions of notice under this subsection, the extent of notice shall be determined by the court.

(6) Proceedings for commitment of an individual under ~~[the age of]~~ 18 years old to a local mental health authority may be commenced in accordance with Part 7, Commitment of ~~[Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health Authority.

(7) The district court may, in ~~[its]~~ the district court's discretion, transfer the case to any other district court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or ~~[its]~~ the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(10) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(v) that findings resulting from the examination will be made available to the court;

and

(vi) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 62A-15-625, or has acceptable programs available to the proposed patient without court proceedings. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, [its] the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, [its] the local mental health authority's designee, or the medical examiner shall immediately report that determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or [its] the local mental health authority's designee informs the court that the proposed patient:

(a) does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section 62A-15-625; or

(c) has acceptable options for treatment programs that are available without court proceedings.

(14) Before the hearing, an opportunity to be represented by counsel shall be afforded

to the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(15) (a) The proposed patient, the applicant, and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in ~~[its]~~ the court's discretion, receive the testimony of any other person. The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude all persons not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or ~~[its]~~ the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) That information shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16) The court shall order commitment of [a] an adult proposed patient [~~who is 18 years of age or older~~] to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(a) the proposed patient has a mental illness;

(b) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

(c) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

(d) there is no appropriate less-restrictive alternative to a court order of commitment; and

(e) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs. In the absence of the required findings of the court after the hearing, the court shall dismiss the proceedings.

(17) (a) The order of commitment shall designate the period for which the patient shall be treated. When the patient is not under an order of commitment at the time of the hearing, that period may not exceed six months without benefit of a review hearing. Upon such a review hearing, to be commenced prior to the expiration of the previous order, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the required conditions in Subsection (16) will last for an indeterminate period.

(b) The court shall maintain a current list of all patients under [its] the court's order of commitment. That list shall be reviewed to determine those patients who have been under an order of commitment for the designated period. At least two weeks prior to the expiration of the designated period of any order of commitment still in effect, the court that entered the original order shall inform the appropriate local mental health authority or [its] the local mental health authority's designee. The local mental health authority or [its] the local mental health

524 authority's designee shall immediately reexamine the reasons upon which the order of
525 commitment was based. If the local mental health authority or [~~its~~] the local mental health
526 authority's designee determines that the conditions justifying that commitment no longer exist,
527 it shall discharge the patient from involuntary commitment and immediately report the
528 discharge to the court. Otherwise, the court shall immediately appoint two designated
529 examiners and proceed under Subsections (8) through (14).

530 (c) The local mental health authority or [~~its~~] the local mental health authority's
531 designee responsible for the care of a patient under an order of commitment for an
532 indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order
533 of indeterminate commitment was based. If the local mental health authority or [~~its~~] the local
534 mental health authority's designee determines that the conditions justifying that commitment no
535 longer exist, that local mental health authority or [~~its~~] the local mental health authority's
536 designee shall discharge the patient from [~~its~~] the local mental health authority's custody and
537 immediately report the discharge to the court. If the local mental health authority or [~~its~~] the
538 local mental health authority's designee determines that the conditions justifying that
539 commitment continue to exist, the local mental health authority or [~~its~~] the local mental health
540 authority's designee shall send a written report of those findings to the court. The patient and
541 the patient's counsel of record shall be notified in writing that the involuntary commitment will
542 be continued, the reasons for that decision, and that the patient has the right to a review hearing
543 by making a request to the court. Upon receiving the request, the court shall immediately
544 appoint two designated examiners and proceed under Subsections (8) through (14).

545 (18) Any patient committed as a result of an original hearing or a patient's legally
546 designated representative who is aggrieved by the findings, conclusions, and order of the court
547 entered in the original hearing has the right to a new hearing upon a petition filed with the court
548 within 30 days of the entry of the court order. The petition must allege error or mistake in the
549 findings, in which case the court shall appoint three impartial designated examiners previously
550 unrelated to the case to conduct an additional examination of the patient. The new hearing
551 shall, in all other respects, be conducted in the manner otherwise permitted.

552 (19) Costs of all proceedings under this section shall be paid by the county in which the
553 proposed patient resides or is found.

554 Section 6. Section **62A-15-701** is amended to read:

**Part 7. Commitment of Individuals Under 18 Years Old to
Local Mental Health Authority**

62A-15-701. Definitions.

As used in this part:

(1) "Child" means ~~[a person]~~ an individual under 18 years ~~[of age]~~ old.

(2) "Commit" and "commitment" mean the transfer of physical custody in accordance with the requirements of this part.

(3) "Designated examiner" means the same as that term is defined in Section 62A-15-602.

(4) "Designee" means the same as that term is defined in Section 62A-15-602.

(5) "Inpatient setting" means an out of home acute setting for stabilization or treatment of a patient who:

(a) has a mental illness; and

(b) because of the mental illness, poses a substantial danger to self or others.

~~[(3)]~~ (6) "Legal custody" means~~[-]~~ a relationship embodying the following rights and duties:

(a) the right to determine where and with whom the child shall live;

(b) the right to ~~[participate in all treatment decisions and to]~~ consent or withhold consent for treatment for the child in which a constitutionally protected liberty or privacy interest may be affected, including antipsychotic medication, electroshock therapy, and psychosurgery; ~~[and]~~

(c) the right, in an emergency, to authorize surgery or other extraordinary ~~[medical]~~ care~~[-]~~ to the child; and

(d) the right and duty to protect, train, and discipline the child.

(7) "Mental illness" means the same as that term is defined in Section 62A-15-602.

(8) "Patient" means the same as that term is defined in Section 62A-15-602.

~~[(4)]~~ (9) "Physical custody" means a relationship embodying the following rights and duties:

(a) ~~[placement of a child in any residential or]~~ the right to place the child in an inpatient setting;

~~[(b) the right to physical custody of a child;]~~

586 ~~[(e)]~~ (b) the right and duty to protect the child; and
587 ~~[(d)]~~ (c) the duty to provide, or ~~[insure]~~ ensure that the child is provided with, adequate
588 food, clothing, shelter, and ordinary medical care.

589 ~~[(5) "Residential" means any out-of-home placement made by a local mental health~~
590 ~~authority, but does not include out-of-home respite care.]~~

591 ~~[(6) "Respite care" means temporary, periodic relief provided to parents or guardians~~
592 ~~from the daily care of children with serious emotional disorders for the limited time periods~~
593 ~~designated by the division.]~~

594 (10) "Substantial danger" means the same as that term is defined in Section
595 [62A-15-602](#).

596 (11) "Treatment" means the same as that term is defined in Section [62A-15-602](#).

597 Section 7. Section **62A-15-702.5** is enacted to read:

598 **62A-15-702.5. Temporary commitment -- Criteria -- Protective custody --**
599 **Transport of child -- Release.**

600 (1) A child shall be temporarily committed to the physical custody of a local mental
601 health authority for evaluation and treatment if:

602 (a) the child's parent or legal guardian does not consent to evaluation or treatment for
603 the child; and

604 (b) (i) another responsible individual submits a written application to the local mental
605 health authority that:

606 (A) states the individual's belief that the child has a mental illness and because of the
607 child's mental illness, the child poses a substantial danger to self or others;

608 (B) states the responsible individual's reason to know and personal knowledge of the
609 child's condition or circumstances that led to the individual's belief described in Subsection

610 (1)(b)(i)(A);

611 (C) includes a certification by a licensed physician or designated examiner that states
612 the physician or designated examiner examined the child within the three-day period
613 immediately before the day on which the physician or designated examiner completed the
614 certification and is of the opinion that the child has a mental illness and because of the child's
615 mental illness, the child poses a substantial danger to self or others; and

616 (D) is on a form prescribed by the division; or

617 (ii) a peace officer or mental health officer submits a written application to the local
618 mental health authority that:

619 (A) states the peace officer or mental health officer has, based on the peace officer's or
620 mental health officer's observations, probable cause to believe that the child has a mental
621 illness and because of the child's mental illness and conduct, the child poses a substantial
622 danger to self or others;

623 (B) states the peace officer's or mental health officer's belief that the child poses a
624 substantial danger to self or others;

625 (C) states the specific nature of the substantial danger;

626 (D) provides a summary of the observations upon which the statement of substantial
627 danger is based;

628 (E) provides a statement of the facts that called the child to the peace officer's or
629 mental health officer's attention; and

630 (F) is on a form prescribed by the division.

631 (2) (a) Except as provided in Subsection (2)(b), upon a written application under
632 Subsection (1) a peace officer shall:

633 (i) take the child into the peace officer's protective custody, by reasonable means, if
634 necessary for public safety; and

635 (ii) arrange for the child to be transported for temporary commitment to a facility
636 designated by the local mental health authority by means of:

637 (A) an ambulance, if the child meets any of the criteria described in Section [26-8a-305](#);

638 (B) the city, town, or municipal law enforcement authority with jurisdiction over the
639 location where the child is present, if the child is not transported by ambulance;

640 (C) the county sheriff, if the facility designated by the local mental health authority is
641 outside of the jurisdiction of the city, town, or municipal law enforcement authority and the
642 child is not transported by ambulance; or

643 (D) nonemergency secured behavioral health transport as that term is defined in
644 Section [26-8a-102](#).

645 (b) (i) A child who is temporarily committed under this section shall be transported by
646 ambulance to an appropriate medical facility for treatment if the child requires physical medical
647 attention.

(ii) If the child is not taken into protective custody under Subsection (2)(a), the child may be transported for temporary commitment to a facility designated by the local mental health authority, by means of an ambulance arranged by a physician, designated examiner, or mental health officer, or any means described in Subsection (2)(a).

(iii) If the peace officer has probable cause to believe, based on the peace officer's experience and de-escalation training, that taking the child into protective custody or transporting the child for temporary commitment under Subsection (2)(a) would increase the risk of substantial danger to the child or others, the peace officer:

(A) is not required to take the child into protective custody or to arrange for or transport the child, to the extent permitted by policies and procedures established by the peace officer's law enforcement agency and any other applicable law; and

(B) shall document in the peace officer's report the details and circumstances that led to the officer's decision under Subsection (2)(b)(iii)(A).

(3) (a) A child may only be temporarily committed under this section for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays.

(b) The local mental health authority shall release a child who is temporarily committed under this section before the end of the 72 hours described in Subsection (3)(a) unless the child is further committed under Section [62A-15-703](#).

(4) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

(c) (i) A person is not required to report under Section [62A-4a-403](#) based solely on a parent's or legal guardian's refusal to consent to evaluation or treatment for the parent's or legal guardian's child before the child is temporarily committed under this section.

(ii) A person may report under Section [62A-4a-403](#) if, at the expiration of the child's temporary commitment period described in Subsection (3)(a):

(A) the child's parent or legal guardian refuses to consent to evaluation or treatment for the child; and

(B) the person has reason to believe the child's parent or legal guardian's refusal under Subsection (4)(c)(ii)(A) is neglect, as that term is defined in Subsection 80-1-102(51)(a)(iii).

(iii) Subsections (4)(c)(i) and (ii) do not prohibit a person from making a report in

679 accordance with Section [62A-4a-403](#).

680 Section 8. Section **62A-15-703** is amended to read:

681 **62A-15-703. Commitment proceeding outside of juvenile court -- Criteria --**
682 **Physical and legal custody -- Costs -- Release -- Appeal to juvenile court.**

683 ~~[(1) A child may receive services from a local mental health authority in an inpatient or~~
684 ~~residential setting only after a commitment proceeding, for the purpose of transferring physical~~
685 ~~custody, has been conducted in accordance with the requirements of this section.]~~

686 ~~[(2) That commitment proceeding shall be initiated by a petition for commitment, and~~
687 ~~shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant~~
688 ~~to the procedures and requirements of this section. If the findings described in Subsection (4)~~
689 ~~exist, the proceeding shall result in the transfer of physical custody to the appropriate local~~
690 ~~mental health authority, and the child may be placed in an inpatient or residential setting.]~~

691 (1) As used in this section, "child's current treating mental health professional" means:

692 (a) a licensed mental health professional who is providing mental health treatment to
693 the child; or

694 (b) if the child is in the physical custody of the Utah State Hospital, the treating
695 psychiatrist or clinical director of the Utah State Hospital.

696 (2) Except as provided in Sections [62A-15-702.5](#) and [62A-15-705](#), a child may only
697 receive services from a local mental health authority in an inpatient setting after the child is
698 committed to the physical custody of a local mental health authority in accordance with this
699 section.

700 (3) A child shall be initially committed to the physical custody of a local mental health
701 authority if:

702 (a) a responsible individual with reason to know of the child's condition or
703 circumstances files a petition for commitment of the child with the local mental health
704 authority; and

705 (b) after the time at which the petition for commitment is filed, a neutral and detached
706 fact finder:

707 (i) holds a hearing to conduct a careful, diagnostic inquiry into the commitment of the
708 child in accordance with this section; and

709 (ii) orders commitment of the child to a local mental health authority in accordance

with this section.

~~[(3)]~~ (4) The neutral and detached fact finder ~~[who conducts the inquiry]~~ described in Subsection (3):

(a) shall be a designated examiner~~[, as defined in Section 62A-15-602]~~; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child ~~[in that setting].~~

~~[(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:]~~

~~[(a) the child has a mental illness, as defined in Section 62A-15-602;]~~

~~[(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;]~~

~~[(c) the child will benefit from care and treatment by the local mental health authority; and]~~

~~[(d) there is no appropriate less-restrictive alternative.]~~

(5) (a) The ~~[commitment proceeding]~~ hearing before the neutral and detached fact finder described in Subsection (3) shall be conducted in as informal of a manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

~~[(b) The child;]~~

(b) (i) The neutral and detached fact finder shall provide the following persons informal notice of the hearing and an opportunity to appear at the hearing:

(A) the child;

(B) the child's parent or legal guardian[;];

(C) if not the child's parent or legal guardian, the petitioner[;]; and

(D) a representative of the [appropriate] local mental health authority[:].

~~[(i) shall receive informal notice of the date and time of the proceeding; and]~~

~~[(ii) may appear and address the petition for commitment.]~~

(ii) If the petitioner is not the child's parent or legal guardian:

(A) the local mental health authority or the local mental health authority's designee shall also provide notice to the child's parent or legal guardian of the hearing; and

(B) the neutral and detached fact finder shall provide the child's parent or legal

guardian sufficient time to prepare for the hearing.

(c) The neutral and detached fact finder may, in the neutral and detached fact finder's discretion, receive the testimony of any other person during the hearing.

(d) (i) The neutral and detached fact finder may allow a child to waive the child's right to be present at the [~~commitment proceeding~~] hearing, for good cause shown. [~~If that right is waived,~~]

(ii) If the neutral and detached fact finder allows the child to waive the child's right to be present at the hearing, the neutral and detached fact finder shall make the purpose of the waiver [~~shall be made~~] a matter of record at the [~~proceeding~~] hearing.

(e) At the time of the [~~commitment proceeding~~] hearing, the [~~appropriate~~] local mental health authority, [~~its~~] the local mental health authority's designee, or the [~~psychiatrist who has been in charge of the child's care prior to the commitment proceeding,~~] child's current treating mental health professional shall provide the neutral and detached fact finder with the following information, as [~~it~~] the information relates to the period of current admission:

(i) the petition for commitment;

(ii) [~~the~~] admission notes;

(iii) the child's diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The local mental health authority, the local mental health authority's designee, or the child's current treating mental health professional shall provide the information described in Subsection (5)(e) [~~shall also be provided~~] to the child's parent or legal guardian upon written request.

(6) (a) The neutral and detached fact finder described in Subsection (3) shall order that the child be committed to the physical custody of a local mental health authority if the neutral and detached fact finder determines by clear and convincing evidence that:

(i) the child has a mental illness;

(ii) because of the child's mental illness, the child poses a substantial danger to self or others;

772 (iii) there is no appropriate less-restrictive alternative to an order of commitment; and
773 (iv) the local mental health authority can provide the child with treatment that is
774 adequate and appropriate to the child's condition and needs.

775 ~~[(g)]~~ (b) (i) [The] Subject to Subsection (6)(b)(ii), the neutral and detached fact finder's
776 [decision] order of commitment shall state the duration of the commitment. [Any]

777 (ii) The duration of an order of commitment [to the physical custody of a local mental
778 health authority] may not exceed 180 days. [Prior to expiration of the commitment, and if]

779 (7) (a) If further commitment of the child is sought, a hearing shall be conducted before
780 the day on which the order of commitment expires in the same manner as the initial
781 commitment [proceeding, in accordance with the requirements of this section. (ii) At] hearing
782 under this section.

783 (b) If an order for further commitment is made at the conclusion of the hearing [and
784 subsequently in writing, when a decision for commitment is made] described in Subsection
785 (7)(a), the neutral and detached fact finder who conducts the hearing described in Subsection
786 (7)(a) shall:

787 (i) at the conclusion of the hearing and subsequently in writing, inform the child and
788 the child's parent or legal guardian of [that decision] the order for further commitment and [of]
789 the reasons for ordering further commitment[-]; and

790 ~~[(iii) The neutral and detached fact finder shall]~~

791 (ii) state in writing the basis of the [decision] order for further commitment, with
792 specific reference to each of the criteria described in Subsection [(4)] (6)(a), as a matter of
793 record.

794 ~~[(6) A child may be temporarily committed for a maximum of 72 hours, excluding~~
795 ~~Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health~~
796 ~~authority in accordance with the procedures described in Section 62A-15-629 and upon~~
797 ~~satisfaction of the risk factors described in Subsection (4). A child who is temporarily~~
798 ~~committed shall be released at the expiration of the 72 hours unless the procedures and findings~~
799 ~~required by this section for the commitment of a child are satisfied.]~~

800 ~~[(7)]~~ (8) (a) A local mental health authority shall have physical custody of [each] a
801 child committed to [it] the local mental health authority under this section.

802 (b) (i) The parent or legal guardian of a child committed to the physical custody of a

803 local mental health authority under this section, retains legal custody of the child, unless legal
804 custody ~~[has been]~~ is otherwise modified by a court of competent jurisdiction. ~~[In cases when~~
805 ~~the]~~

806 (ii) If the Division of Child and Family Services or the Division of Juvenile Justice
807 Services has legal custody of ~~[a]~~ the child, that division ~~[shall retain]~~ retains legal custody for
808 purposes of this part.

809 ~~[(8)]~~ (9) (a) The cost of caring for and maintaining a child in the physical custody of a
810 local mental health authority shall be assessed to and paid by the child's ~~[parents]~~ parent,
811 according to ~~[their]~~ the parent's ability to pay. ~~[For purposes of this section,]~~

812 (b) (i) If a child is in the legal custody of the Division of Child and Family Services or
813 the Division of Juvenile Justice Services [shall be financially responsible, in addition to the
814 child's parents, if the child is in the legal custody of either of those divisions at the time the
815 child is committed to the physical custody of a local mental health authority under this section,]
816 when the child is committed to the physical custody of a local mental health authority under
817 this section, that division, in addition to the child's parent, is financially responsible for the cost
818 of caring for and maintaining the child in physical custody, unless Medicaid regulation or
819 contract provisions specify otherwise.

820 (ii) The Office of Recovery Services shall assist [those divisions] the Division of Child
821 and Family Services and the Division of Juvenile Justice Services in collecting the costs
822 assessed [pursuant to] under this section.

823 ~~[(9) Whenever application is made for commitment of a minor to a local mental health~~
824 ~~authority under any provision of this section by a person other than the child's parent or~~
825 ~~guardian, the local mental health authority or its designee shall notify the child's parent or~~
826 ~~guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled~~
827 ~~proceeding.]~~

828 (10) (a) (i) [Each] A child committed [pursuant to] under this section is entitled to an
829 appeal within 30 days after [any] an order for commitment is entered.

830 (ii) The appeal may be brought on the child's own petition or on petition of the child's
831 parent or legal guardian, to the juvenile court in the district where the child resides or is
832 [currently] physically located. [With regard to a child in the custody of the Division of Child
833 and Family Services or the Division of Juvenile Justice Services, the attorney general's office

834 ~~shall handle the appeal, otherwise the appropriate]~~

835 (iii) (A) Except as provided in Subsection (10)(a)(iii)(B), the county attorney's office is
836 responsible for [appeals brought pursuant to] an appeal brought under this Subsection (10)(a).

837 (B) If the child is in the legal custody of the Division of Child and Family Services or
838 the Division of Juvenile Justice Services, the attorney general's office is responsible for the
839 appeal.

840 (b) (i) [Upon receipt of] After the day on which the juvenile court receives the petition
841 for appeal, the juvenile court shall appoint a designated examiner previously unrelated to the
842 case, to conduct an examination of the child [in accordance with the] to determine whether the
843 child meets the criteria described in Subsection [(4)] (6)(a), and file a written report with the
844 juvenile court. [The court shall then]

845 (ii) After the day on which the juvenile court receives the report from the designated
846 examiner, the juvenile court shall conduct an appeal hearing to determine by clear and
847 convincing evidence whether the [findings] child meets the criteria described in Subsection [(4)]
848 exist by clear and convincing evidence] (6)(a).

849 (c) [Prior to the time of] Before the time at which the appeal hearing is held, the
850 [appropriate] local mental health authority, [its] the local mental health authority's designee, or
851 the child's current treating mental health professional [who has been in charge of the child's
852 care prior to commitment;] shall provide the juvenile court and the designated examiner for the
853 appeal hearing with the [following] information described in Subsection (5)(e), as [it] the
854 information relates to the period of current admission[:].

855 [(i) the original petition for commitment;]

856 [(ii) admission notes;]

857 [(iii) diagnosis;]

858 [(iv) physicians' orders;]

859 [(v) progress notes;]

860 [(vi) nursing notes; and]

861 [(vii) medication records.]

862 (d) [Both] The juvenile court shall provide the neutral and detached fact finder who
863 made the order of commitment that is appealed and the designated examiner appointed [for the
864 appeal hearing shall be provided] under Subsection (10)(b) with an opportunity to review the

most current information described in Subsection (10)(c) ~~[prior to]~~ before the day on which the appeal hearing is held.

~~[(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing.]~~

(e) (i) The juvenile court shall notify and provide the following persons an opportunity to appear at the appeal hearing:

(A) the child;

(B) the child's parent or legal guardian;

(C) if not the child's parent or legal guardian, the petitioner who filed the initial petition for commitment of the child; and

(D) a representative of the local mental health authority.

(ii) In reaching [its] the juvenile court's decision, the juvenile court shall review the record and findings of the neutral and detached fact finder[;] who made the appealed order of commitment and the report of the designated examiner appointed [pursuant to] under Subsection (10)(b), and may, in [its] the juvenile court's discretion, allow or require the testimony of:

(A) the neutral and detached fact finder[;];

(B) the designated examiner[;];

(C) the child[;];

(D) the child's parent or legal guardian[;];

(E) the person who brought the initial petition for commitment[;]; or

(F) any other person whose testimony the court deems relevant.

(iii) (A) The juvenile court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. [If that waiver is granted, the]

(B) If juvenile court allows the child to waive the right to appear at the appeal hearing, the juvenile court shall make the purpose [shall be made a] of the waiver part of the juvenile court's record.

(11) [Each] A local mental health authority has an affirmative duty to:

(a) conduct periodic [evaluations] reviews of the mental health and treatment progress

of ~~[every]~~ a child committed to ~~[its]~~ the local mental health authority's physical custody under this section~~[-and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.]; and~~

(b) release a child from commitment who no longer meets the criteria described in Subsection (6)(a).

(12) (a) A local mental health authority or ~~[its]~~ the local mental health authority's designee, in conjunction with the child's current treating mental health professional, may release an improved child to a less restrictive environment~~[-as they]~~ as the local mental health authority or the local mental health authority's designee and the child's current treating mental health professional determine appropriate. ~~[Whenever]~~

(b) If the local mental health authority or [its] the local mental health authority's designee[-] and the child's current treating mental health professional[-] determine that the conditions justifying commitment no longer exist, the [child shall be discharged and released] local mental health authority shall release the child to the physical custody of the child's parent or legal guardian. [With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.]

~~[(b)]~~ (c) [A] The local mental health authority or [its] the local mental health authority's designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local mental health authority or ~~[its]~~ the local mental health authority's designee and the child's current treating mental health professional ~~[has]~~ have reason to believe that the less restrictive environment in which the child ~~[has been]~~ is placed is exacerbating the child's mental illness, or increasing the child's risk of harm to self or others.

~~[(c)]~~ (d) The written order described in Subsection (12)~~[(b)]~~(c) shall:

(i) include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional~~[-Prior to admission]; and~~

(ii) be personally delivered before the day on which the child is admitted to the more

restrictive environment~~], copies of the order shall be personally delivered]~~ to:

(A) the child~~];~~

(B) the child's parent or legal guardian~~];~~

(C) the administrator of the more restrictive environment~~];~~ or the administrator's designee~~];~~ and

(D) the child's former treatment provider or facility.

~~[(d)]~~ (e) (i) If the child ~~[has been]~~ is in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review of the placement within 30 days ~~[of the change]~~ after the day on which the change is made, by a neutral and detached fact finder ~~[as described in]~~ who meets the requirements described in Subsection [(3)] (4).

(ii) The neutral and detached fact finder described in Subsection (12)(e)(i) shall determine whether~~[(i)]~~ the less restrictive environment in which the child ~~[has been]~~ is placed is exacerbating the child's mental illness or increasing the child's risk of harm to self or others~~];~~ ~~or].~~

~~[(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate]~~

(iii) If the neutral and detached fact finder described in Subsection (12)(e)(i) makes the determination described in Subsection (12)(e)(ii), the neutral and detached fact finder shall order that the child remain in the less restrictive environment.

~~[(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.]~~

~~[(13) Each]~~ (f) (i) A local mental health authority or ~~[its]~~ the local mental health authority's designee, in conjunction with the child's current treating mental health professional, shall ~~[discharge any]~~ release a child from commitment who, in the opinion of ~~[that]~~ the local mental health authority~~], or its]~~ or the local mental health authority's designee]; and the child's current treating mental health professional, no longer meets the criteria ~~[specified]~~ described in Subsection [(4), except as provided by Section 62A-15-705. The] (6)(a).

(ii) Before the day on which the child is released under Subsection (12)(f)(i), the local mental health authority and the mental health professional shall [assure] ensure that any further supportive services required to meet the child's needs upon release will be provided.

(g) This section does not prevent a local mental health authority or the local mental health authority's designee, in conjunction with the child's current treating mental health professional, from releasing a child from commitment or placing a child in an environment that is less-restrictive than the environment designated by the neutral and detached fact finder described in Subsection (12)(e).

~~[(14) Even though a child has been]~~

(13) A child who is committed to the physical custody of a local mental health authority under this section[, the child is still] is entitled to additional due process proceedings, in accordance with Section 62A-15-704, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered[. Those treatments include, but are not limited to], including antipsychotic medication, electroshock therapy, [and] or psychosurgery.

Section 9. Section **62A-15-705** is amended to read:

62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Child in physical custody of local mental health authority.

~~[(1)(a) Subject to Subsection (1)(b), a commitment proceeding for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section 62A-15-631.]~~

~~[(b) A commitment proceeding under this section may be commenced]~~

(1) A proceeding to commit a child to the physical custody of a local mental health authority to receive services from the local mental health authority in an inpatient setting may be commenced in accordance with this section only after a commitment proceeding under Section 62A-15-703 [has concluded] concludes without the child being committed.

(2) A responsible individual may commence a proceeding to commit a child to the physical custody of a local mental health authority for the purpose described in Subsection (1) by filing a written application with the juvenile court of the county in which the child resides or is found.

(3) The written application described in Subsection (2) shall:

(a) (i) if reasonably available, state the child's:

989 (A) name;

990 (B) date of birth; and

991 (C) social security number;

992 (ii) state the responsible individual's credible knowledge of the child's mental illness
993 and the condition or circumstances that led to the child's need to be committed to the physical
994 custody of the local mental health authority; and

995 (b) (i) include a certification by a licensed physician or designated examiner that states
996 the physician or designated examiner:

997 (A) examined the child within the seven-day period immediately before the day on
998 which the physician or designated examiner completed the certification; and

999 (B) is of the opinion that the child has a mental illness and should be committed to the
1000 physical custody of the local mental health authority; or

1001 (ii) include a statement, under sworn oath, that:

1002 (A) the child's parent or legal guardian refuses to submit the child to an examination of
1003 mental condition by a licensed physician or designated examiner; and

1004 (B) describes the facts upon which the written application is based.

1005 (4) (a) The juvenile court shall, as soon as practicable, provide notice of the written
1006 application described in Subsection (2) to:

1007 (i) if not the applicant, the parent or legal guardian of the child;

1008 (ii) any immediate adult family members of the child;

1009 (iii) legal counsel for the parties involved;

1010 (iv) the local mental health authority or the local mental health authority's designee;

1011 and

1012 (v) any other persons designated by the juvenile court.

1013 (b) The notice shall advise the persons described in Subsection (4)(a) that a hearing
1014 may be held within the time provided by law.

1015 ~~[(2)]~~ (5)(a) The juvenile court shall order ~~[commitment]~~ the child be committed to the
1016 physical custody of a local mental health authority if, upon completion of ~~[the]~~ a hearing and
1017 consideration of the record, the juvenile court finds by clear and convincing evidence that~~[:]~~ the
1018 child meets the criteria described in Subsection ~~62A-15-703~~(6)(a).

1019 ~~[(a) the child has a mental illness, as defined in Section ~~62A-15-602~~];~~

1020 ~~[(b) the child demonstrates a risk of harm to the child or others;]~~
1021 ~~[(c) the child is experiencing significant impairment in the child's ability to perform~~
1022 ~~socially;]~~
1023 ~~[(d) the child will benefit from the proposed care and treatment; and]~~
1024 ~~[(e) there is no appropriate less restrictive alternative.]~~
1025 ~~[(3)]~~ (b) The juvenile court may not commit a child ~~[under Subsection (1)]~~ directly to
1026 the Utah State Hospital.

1027 ~~[(4)]~~ (6) The local mental health authority has an affirmative duty to:
1028 (a) conduct periodic reviews of ~~[children committed to the local mental health~~
1029 ~~authority's custody in accordance with this section; and (b) release any child who has~~
1030 ~~sufficiently improved so that the local mental health authority, or the local mental authority's~~
1031 ~~designee, determines that commitment is no longer appropriate.]~~ a child committed to the
1032 physical custody of the local mental health authority under this section; and
1033 (b) release a child from commitment who no longer meets the criteria described in
1034 Subsection 62A-15-703(6)(a).

1035 ~~[(5)]~~ (7) If the juvenile court commits a child ~~[is committed]~~ to the physical custody of
1036 [a] the local mental health authority, [or the local mental health authority's designee, by the
1037 ~~juvenile court,]~~ the local mental health authority, or the local mental health authority's
1038 designee, shall give the juvenile court written notice of the intention to release the child not
1039 fewer than five days before the day on which the child is scheduled to be released.

1040 Section 10. Section **78A-6-103** is amended to read:

1041 **78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions --**
1042 **Findings -- Transfer of a case from another court.**

1043 (1) Except as otherwise provided by Subsections **78A-5-102(9)**, **78A-5-102(10)**, and
1044 **78A-7-106(2)**, the juvenile court has original jurisdiction over:

1045 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
1046 state, or federal law, that was committed by a child; and

1047 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
1048 state, or federal law, that was committed by an individual:

1049 (i) who is under 21 years old at the time of all court proceedings; and

1050 (ii) who was under 18 years old at the time the offense was committed.

1051 (2) The juvenile court has original jurisdiction over any proceeding concerning:
1052 (a) a child who is an abused child, neglected child, or dependent child;
1053 (b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child
1054 Protective Orders;
1055 (c) the appointment of a guardian of the individual or other guardian of a minor who
1056 comes within the court's jurisdiction under other provisions of this section;
1057 (d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;
1058 (e) the termination of parental rights in accordance with Title 80, Chapter 4,
1059 Termination and Restoration of Parental Rights, including termination of residual parental
1060 rights and duties;
1061 (f) the treatment or commitment of a minor who has an intellectual disability;
1062 (g) the judicial consent to the marriage of a minor who is 16 or 17 years old in
1063 accordance with Section 30-1-9;
1064 (h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);
1065 (i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
1066 (j) the treatment or commitment of a child with a mental illness;
1067 ~~[(k) the commitment of a child to a secure drug or alcohol facility in accordance with~~
1068 ~~Section 62A-15-301;]~~
1069 ~~[(†)]~~ (k) a minor found not competent to proceed in accordance with Title 80, Chapter
1070 6, Part 4, Competency;
1071 ~~[(m)]~~ (l) de novo review of final agency actions resulting from an informal adjudicative
1072 proceeding as provided in Section 63G-4-402;
1073 ~~[(n)]~~ (m) adoptions conducted in accordance with the procedures described in Title
1074 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order
1075 terminating the rights of a parent and finds that adoption is in the best interest of the child;
1076 ~~[(o)]~~ (n) an ungovernable or runaway child who is referred to the juvenile court by the
1077 Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of
1078 Juvenile Justice Services, the child has demonstrated that the child:
1079 (i) is beyond the control of the child's parent, guardian, or custodian to the extent that
1080 the child's behavior or condition endangers the child's own welfare or the welfare of others; or
1081 (ii) has run away from home; and

1082 ~~[(p)]~~ (o) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an
1083 adult alleged to have committed an offense under Subsection [78A-6-352\(4\)\(b\)](#) for failure to
1084 comply with a promise to appear and bring a child to the juvenile court.

1085 (3) It is not necessary for a minor to be adjudicated for an offense or violation of the
1086 law under Section [80-6-701](#), for the juvenile court to exercise jurisdiction under Subsection
1087 ~~[(2)(p)]~~ (2)(o).

1088 (4) This section does not restrict the right of access to the juvenile court by private
1089 agencies or other persons.

1090 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
1091 arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

1092 (6) The juvenile court has jurisdiction to make a finding of substantiated,
1093 unsubstantiated, or without merit, in accordance with Section [80-3-404](#).

1094 (7) The juvenile court has jurisdiction over matters transferred to the juvenile court by
1095 another trial court in accordance with Subsection [78A-7-106\(4\)](#) and Section [80-6-303](#).

1096 Section 11. Section **78A-6-358** is amended to read:

1097 **78A-6-358. Period of effect for a judgment, decree, or order by a juvenile court.**

1098 (1) A judgment, order, or decree of the juvenile court is no longer in effect after a
1099 minor is 21 years old, except:

1100 (a) for an order of commitment to the Utah State Developmental Center or to the
1101 custody of the Division of Substance Abuse and Mental Health;

1102 (b) for an adoption under Subsection ~~[[78A-6-103\(2\)\(n\)](#)]~~ [78A-6-103\(2\)\(m\)](#);

1103 (c) for an order permanently terminating the rights of a parent, guardian, or custodian
1104 under Title 80, Chapter 4, Termination and Restoration of Parental Rights;

1105 (d) for a permanent order of custody and guardianship under Subsection
1106 [80-3-405\(2\)\(d\)](#);

1107 (e) an order establishing paternity under Subsection [78A-6-104\(1\)\(a\)\(i\)](#); and

1108 (f) as provided in Subsection (2).

1109 (2) If the juvenile court enters a judgment or order for a minor for whom the juvenile
1110 court has extended continuing jurisdiction over the minor's case until the minor is 25 years old
1111 under Section [80-6-605](#), the juvenile court's judgment or order is no longer in effect after the
1112 minor is 25 years old.

1113 Section 12. Section **78B-6-105** is amended to read:

1114 **78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction**
1115 **over nonresidents -- Time for filing.**

1116 (1) An adoption proceeding shall be commenced by filing a petition in:

1117 (a) the district court in the district where the prospective adoptive parent resides;

1118 (b) if the prospective adoptive parent is not a resident of this state, the district court in
1119 the district where:

1120 (i) the adoptee was born;

1121 (ii) the adoptee resides on the day on which the petition is filed; or

1122 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

1123 or

1124 (c) the juvenile court as provided in Subsection [~~78A-6-103(2)(n)~~] 78A-6-103(2)(m)

1125 and Section 78A-6-350.

1126 (2) All orders, decrees, agreements, and notices in an adoption proceeding shall be
1127 filed with the clerk of the court where the adoption proceeding is commenced under Subsection
1128 (1).

1129 (3) A petition for adoption:

1130 (a) may be filed before the birth of a child;

1131 (b) may be filed before or after the adoptee is placed in the home of the petitioner for
1132 the purpose of adoption; and

1133 (c) shall be filed no later than 30 days after the day on which the adoptee is placed in
1134 the home of the petitioners for the purpose of adoption, unless:

1135 (i) the time for filing has been extended by the court; or

1136 (ii) the adoption is arranged by a child-placing agency in which case the agency may
1137 extend the filing time.

1138 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120
1139 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state
1140 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,
1141 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

1142 (b) The notice may not include the name of:

1143 (i) a prospective adoptive parent; or

(ii) an unmarried mother without her consent.

(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(6) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served is sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 13. Section **80-3-405** is amended to read:

80-3-405. Dispositions after adjudication.

(1) (a) Upon adjudication under Subsection **80-3-402**(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 62A-15-701, of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of ~~[Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health Authority.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102(51)(b) and Section 80-3-304, the juvenile court

1206 may order that a minor:

1207 (A) be examined or treated by a mental health therapist, as described in Section

1208 80-3-109; or

1209 (B) receive other special care.

1210 (ii) For purposes of receiving the examination, treatment, or care described in

1211 Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable

1212 facility that is not secure care or secure detention.

1213 (iii) In determining whether to order the examination, treatment, or care described in

1214 Subsection (2)(g)(i), the juvenile court shall consider:

1215 (A) the desires of the minor;

1216 (B) the desires of the parent or guardian of the minor if the minor is younger than 18

1217 years old; and

1218 (C) whether the potential benefits of the examination, treatment, or care outweigh the

1219 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain

1220 function impairment, or emotional or physical harm resulting from the compulsory nature of

1221 the examination, treatment, or care.

1222 (h) The juvenile court may make other reasonable orders for the best interest of the

1223 minor.

1224 (3) Upon an adjudication under this chapter, the juvenile court may not:

1225 (a) commit a minor solely on the ground of abuse, neglect, or dependency to the

1226 Division of Juvenile Justice Services;

1227 (b) assume the function of developing foster home services; or

1228 (c) vest legal custody of an abused, neglected, or dependent minor in the division to

1229 primarily address the minor's ungovernable or other behavior, mental health, or disability,

1230 unless the division:

1231 (i) engages other relevant divisions within the department that are conducting an

1232 assessment of the minor and the minor's family's needs;

1233 (ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting

1234 custody of the minor in the division is the least restrictive intervention for the minor that meets

1235 the minor's needs; and

1236 (iii) consents to legal custody of the minor being vested in the division.

(4) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

Section 14. Section **80-6-402** is amended to read:

80-6-402. Procedure -- Standard.

(1) When a written motion is filed in accordance with Section **80-6-401** raising the issue of a minor's competency to proceed, or when the juvenile court raises the issue of a minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter.

(2) (a) If a motion for inquiry is opposed by either party, the juvenile court shall, before granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.

(b) If the juvenile court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, the juvenile court shall:

(i) enter an order for an evaluation of the minor's competency to proceed; and

(ii) set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and before a full competency hearing, the juvenile court may order the department to evaluate the minor and to report to the juvenile court concerning the minor's mental condition.

(4) The minor shall be evaluated by a forensic evaluator who:

(a) has experience in juvenile forensic evaluations and juvenile brain development;

(b) if it becomes apparent that the minor is not competent due to an intellectual disability or related condition, has experience in intellectual disability or related conditions; and

(c) is not involved in the current treatment of the minor.

(5) The petitioner or other party, as directed by the juvenile court, shall provide all information and materials relevant to a determination of the minor's competency to the department within seven days of the juvenile court's order, including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) the minor's probation record relevant to competency;

(e) known prior mental health evaluations and treatments; and

(f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the forensic evaluator, including:

(i) medical records;

(ii) prior mental evaluations; or

(iii) records of diagnosis or treatment of substance abuse disorders.

(b) The minor shall cooperate, by executing a release of information when necessary, in providing the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.

(7) (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic evaluator's opinion whether:

(i) the minor has a present ability to consult with counsel with a reasonable degree of rational understanding; and

(ii) the minor has a rational as well as factual understanding of the proceedings.

(b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:

(i) understand the charges or allegations against the minor;

(ii) communicate facts, events, and states of mind;

(iii) understand the range of possible penalties associated with the allegations against the minor;

(iv) engage in reasoned choice of legal strategies and options;

(v) understand the adversarial nature of the proceedings against the minor;

(vi) manifest behavior sufficient to allow the juvenile court to proceed;

(vii) testify relevantly; and

(viii) any other factor determined to be relevant to the forensic evaluator.

(8) (a) The forensic evaluator shall provide an initial report to the juvenile court, the prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30

1299 days of the receipt of the juvenile court's order.

1300 (b) If the forensic evaluator informs the juvenile court that additional time is needed,
1301 the juvenile court may grant, taking into consideration the custody status of the minor, up to an
1302 additional 15 days to provide the report to the juvenile court and counsel.

1303 (c) The forensic evaluator must provide the report within 45 days from the receipt of
1304 the juvenile court's order unless, for good cause shown, the juvenile court authorizes an
1305 additional period of time to complete the evaluation and provide the report.

1306 (d) The report shall inform the juvenile court of the forensic evaluator's opinion
1307 concerning the minor's competency.

1308 (9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the
1309 report shall indicate:

1310 (a) the nature of the minor's:

1311 (i) mental illness;

1312 (ii) intellectual disability or related condition; or

1313 (iii) developmental immaturity;

1314 (b) the relationship of the minor's mental illness, intellectual disability, related
1315 condition, or developmental immaturity to the minor's incompetence;

1316 (c) whether there is a substantial likelihood that the minor may attain competency in
1317 the foreseeable future;

1318 (d) the amount of time estimated for the minor to achieve competency if the minor
1319 undergoes competency attainment treatment, including medication;

1320 (e) the sources of information used by the forensic evaluator; and

1321 (f) the basis for clinical findings and opinions.

1322 (10) Any statement made by the minor in the course of any competency evaluation,
1323 whether the evaluation is with or without the consent of the minor, any testimony by the
1324 forensic evaluator based upon any statement, and any other fruits of the statement:

1325 (a) may not be admitted in evidence against the minor in a proceeding under this
1326 chapter except on an issue respecting the mental condition on which the minor has introduced
1327 evidence; and

1328 (b) may be admitted where relevant to a determination of the minor's competency.

1329 (11) Before evaluating the minor, a forensic evaluator shall specifically advise the

minor, and, if reasonably available, the parents or guardian, of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received, the juvenile court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the juvenile court enlarges the time for good cause.

(13) (a) A minor shall be presumed competent unless the juvenile court, by a preponderance of the evidence, finds the minor not competent to proceed.

(b) The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the juvenile court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile court shall proceed with the proceedings in the minor's case.

(c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile court shall proceed in accordance with Section 80-6-403.

(d) (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the juvenile court shall terminate the competency proceeding, dismiss the charges against the minor without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecutor informs the court that commitment proceedings will be initiated in accordance with:

(A) Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability;

(B) if the minor is 18 years old or older, Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities; or

(C) if the minor is a child, Title 62A, Chapter 15, Part 7, Commitment of ~~Persons Under Age 18 to Division of Substance Abuse and Mental Health~~ Individuals Under 18 Years Old to Local Mental Health Authority.

(ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the day on which the juvenile court enters the order under Subsection (14)(a), unless the court enlarges the time for good cause shown.

(iii) The juvenile court may order the minor to remain in custody until the commitment proceedings have been concluded.

(15) If the juvenile court finds the minor not competent to proceed, the juvenile court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Section 15. Section **80-6-403** is amended to read:

80-6-403. Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) If the juvenile court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the juvenile court shall notify the department of the finding and allow the department 30 days to develop an attainment plan for the minor.

(2) The attainment plan shall include:

(a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;

(b) any additional services or treatment the minor may require to attain competency;

(c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;

(d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and

(e) the likelihood that the minor will attain competency and the amount of time likely required for the minor to attain competency.

(3) The department shall provide the attainment plan to the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days before the competency disposition hearing.

(4) (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.

(b) A finding of not competent to proceed does not grant authority for a juvenile court to place a minor in the custody of a division of the department, or create eligibility for services

1392 from the Division of Services for People With Disabilities.

1393 (c) If the juvenile court orders the minor to be held in detention during the attainment
1394 period, the juvenile court shall make the following findings on the record:

1395 (i) the placement is the least restrictive appropriate setting;

1396 (ii) the placement is in the best interest of the minor;

1397 (iii) the minor will have access to the services and treatment required by the attainment
1398 plan in the placement; and

1399 (iv) the placement is necessary for the safety of the minor or others.

1400 (d) A juvenile court shall terminate an order of detention related to the pending
1401 proceeding for a minor who is not competent to proceed in that matter if:

1402 (i) the most severe allegation against the minor if committed by an adult is a class B
1403 misdemeanor;

1404 (ii) more than 60 days have passed after the day on which the juvenile court
1405 adjudicated the minor not competent to proceed; and

1406 (iii) the minor has not attained competency.

1407 (5) (a) At any time that the minor becomes competent to proceed during the attainment
1408 period, the department shall notify the juvenile court, the prosecuting attorney, the defense
1409 attorney, and the attorney guardian ad litem.

1410 (b) The juvenile court shall hold a hearing with 15 business days of notice from the
1411 department described in Subsection (5)(a).

1412 (6) (a) If at any time during the attainment period the juvenile court finds that there is
1413 not a substantial probability that the minor will attain competency in the foreseeable future, the
1414 juvenile court shall terminate the competency proceeding, dismiss the petition or information
1415 without prejudice, and release the minor from any custody order related to the pending
1416 proceeding, unless the prosecuting attorney or any other individual informs the juvenile court
1417 that commitment proceedings will be initiated in accordance with:

1418 (i) Title 62A Chapter 5, Part 3, Admission to an Intermediate Care Facility for People
1419 with an Intellectual Disability;

1420 (ii) if the minor is 18 years old or older, Title 62A, Chapter 15, Part 6, Utah State
1421 Hospital and Other Mental Health Facilities; or

1422 (iii) if the minor is a child, Title 62A, Chapter 15, Part 7, Commitment of ~~Persons~~

~~Under Age 18 to Division of Substance Abuse and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health Authority.

(b) The prosecuting attorney shall initiate the proceedings described in Subsection (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the time for good cause shown.

(7) During the attainment period, the juvenile court may order a hearing or rehearing at anytime on the juvenile court's own motion or upon recommendation of any interested party or the department.

(8) (a) Within three months of the juvenile court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.

(b) The report described in Subsection (8)(a) shall address the minor's:

(i) compliance with the attainment plan;

(ii) progress towards competency based on the issues identified in the original competency evaluation; and

(iii) current mental illness, intellectual disability or related condition, or developmental immaturity, and need for treatment, if any, and whether there is substantial likelihood of the minor attaining competency within six months.

(9) (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to determine the minor's current status.

(b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.

(c) The juvenile court shall determine by a preponderance of the evidence whether the minor is competent to proceed.

(10) If the minor has not attained competency after the initial three month attainment period but is showing reasonable progress towards attainment of competency, the juvenile court may extend the attainment period up to an additional three months.

(11) The department shall provide an updated juvenile competency evaluation at the conclusion of the six month attainment period to advise the juvenile court on the minor's current competency status.

(12) If the minor does not attain competency within six months after the juvenile court initially finds the minor not competent to proceed, the court shall terminate the competency

proceedings and dismiss the petition or information filed without prejudice, unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.

(13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.

Section 16. Section **80-6-706** is amended to read:

80-6-706. Treatment -- Commitment to local mental health authority or Utah State Developmental Center.

(1) If a minor is adjudicated under Section **80-6-701**, the juvenile court may order:

(a) a nonresidential, diagnostic assessment for the minor, including a risk assessment for substance use disorder, mental health, psychological, or sexual behavior;

(b) the minor to be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(c) other care for the minor.

(2) For purposes of receiving the examination, treatment, or care described in Subsection (1), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(3) In determining whether to order the examination, treatment, or care described in Subsection (1), the juvenile court shall consider:

(a) the desires of the minor;

(b) if the minor is a child, the desires of the minor's parent or guardian; and

(c) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(4) (a) If the juvenile court orders examination, treatment, or care for a child under Subsection (1) and the child is committed to the division under Subsection **80-6-703**(2), the division shall:

(i) take reasonable measures to notify the child's parent or guardian of any non-emergency health treatment or care scheduled for the child;

(ii) include the child's parent or guardian as fully as possible in making health care

1485 decisions for the child; and

1486 (iii) defer to the child's parent's or guardian's reasonable and informed decisions
1487 regarding the child's health care to the extent that the child's health and well-being are not
1488 unreasonably compromised by the parent's or guardian's decision.

1489 (b) The division shall notify the parent or guardian of a child within five business days
1490 after a child committed to the division receives emergency health care or treatment.

1491 (c) The division shall use the least restrictive means to accomplish the care and
1492 treatment of a child described under Subsection (1).

1493 (5) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court
1494 may commit the child to the physical custody, as defined in Section 62A-15-701, of a local
1495 mental health authority in accordance with the procedures and requirements in Title 62A,
1496 Chapter 15, Part 7, Commitment of ~~[Persons Under Age 18 to Division of Substance Abuse~~
1497 ~~and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health Authority.

1498 (6) (a) If a minor is adjudicated for an offense under Section 80-6-701, and the minor
1499 has an intellectual disability, the juvenile court may commit the minor to the Utah State
1500 Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an
1501 Intermediate Care Facility for People with an Intellectual Disability.

1502 (b) The juvenile court shall follow the procedure applicable in the district courts with
1503 respect to judicial commitments to the Utah State Developmental Center when ordering a
1504 commitment under Subsection (6)(a).

1505 Section 17. Section 80-6-801 is amended to read:

1506 **80-6-801. Commitment to local mental health authority or Utah State**
1507 **Developmental Center.**

1508 (1) If a child is committed by the juvenile court to the physical custody, as defined in
1509 Section 62A-15-701, of a local mental health authority, ~~[or the local mental health authority's~~
1510 ~~designee,]~~ Title 62A, Chapter 15, Part 7, Commitment of ~~[Persons Under Age 18 to Division of~~
1511 ~~Substance Abuse and Mental Health]~~ Individuals Under 18 Years Old to Local Mental Health
1512 Authority, shall govern the commitment and release of the ~~[minor]~~ child.

1513 (2) If a minor is committed to the Utah State Developmental Center, Title 62A,
1514 Chapter 5, Services for People with Disabilities, shall govern the commitment and release of
1515 the minor.

1516 Section 18. **Repealer.**

1517 This bill repeals:

1518 Section **62A-15-301**, Commitment of minor to secure drug or alcohol facility or
1519 **program -- Procedures -- Review.**

1520 Section **62A-15-702**, Treatment and commitment of minors in the public mental
1521 **health system.**